

REFERENCE TITLE: **lot splits; military bases; prohibition**

State of Arizona
House of Representatives
Forty-eighth Legislature
First Regular Session
2007

HB 2668

Introduced by
Representatives Nelson, Burns J, Cajero Bedford, Farley, Pancrazi, Senator
O'Halleran: Representatives Hershberger, Mason, Prezelski, Ulmer, Weiers
JP, Yarbrough, Senator Blendu

AN ACT

AMENDING SECTION 11-809, ARIZONA REVISED STATUTES; RELATING TO COUNTY ZONING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 11-809, Arizona Revised Statutes, is amended to
3 read:

4 11-809. Review of land divisions: definitions

5 A. The board of supervisors of each county may adopt ordinances and
6 regulations pursuant to this section for staff review and approval of land
7 divisions of five or fewer lots, parcels or fractional interests, any of
8 which is ten acres or smaller in size. **NOTWITHSTANDING ANY OTHER LAW, LAND**
DIVISIONS OF FIVE OR FEWER LOTS, PARCELS OR FRACTIONAL INTERESTS OF ANY SIZE
SHALL NOT BE ALLOWED IN AN ACCIDENT POTENTIAL ZONE ONE OR AN ACCIDENT
POTENTIAL ZONE TWO AS DEFINED IN SECTION 28-8461. The county may not deny
12 approval of any land division that meets the requirements of this section.
13 If review of the request is not completed within thirty days after receiving
14 the request, the land division is considered to be approved. At its option,
15 the board of supervisors may submit a ballot question to the voters of the
16 county to allow the voters to determine the application of subsections B and
17 C **OF THIS SECTION** to qualifying land divisions in that county.

18 B. An application to split a parcel of land shall be approved if:

19 1. The lots, parcels or fractional interests each meet the minimum
20 applicable county zoning requirements of the applicable zoning designation.

21 2. The applicant provides a standard preliminary title report or other
22 acceptable document that demonstrates legal access to the lots, parcels or
23 fractional interests.

24 3. The applicant provides a statement from a licensed surveyor or
25 engineer, or other evidence acceptable to the county, stating whether each
26 lot, parcel or fractional interest has physical access that is traversable by
27 a two-wheel drive passenger motor vehicle.

28 4. The applicant reserves the necessary and appropriate utility
29 easements to serve each lot, parcel or fractional interest created by the
30 land division.

31 C. An application to split a parcel of land that does not comply with
32 one or more of the items listed in subsection B **OF THIS SECTION** shall still
33 be approved if the applicant provides an acknowledgment that is signed by the
34 applicant and that confirms that no building or use permit will be issued by
35 the county until the lot, parcel or fractional interest has met the
36 requirements of subsection B **OF THIS SECTION**. The county may grant a
37 variance from one or more of the items listed in subsection B **OF THIS**
38 **SECTION**.

39 D. Any approval of a land division under this section may:

40 1. Include the minimum statutory requirements for legal and physical
41 on-site access that must be met as a condition to the issuance of a building
42 or use permit for the lots, parcels or fractional interests.

43 2. Identify topographic, hydrologic or other site constraints,
44 requirements or limitations that must be addressed as conditions to the
45 eventual issuance of a building or use permit. These constraints,

1 requirements or limitations may be as noted by the applicant or through
2 county staff review, but there shall be no requirement for independent
3 studies.

4 E. If the requirements of subsections A through D **OF THIS SECTION** do
5 not apply, a county may adopt ordinances and regulations pursuant to this
6 chapter for staff review of land divisions of five or fewer lots, parcels or
7 fractional interests but only to determine compliance with minimum applicable
8 county zoning requirements and legal access, and may grant waivers from the
9 county zoning and legal access requirements. The county may not deny
10 approval of any land division that meets the requirements of this section or
11 where the deficiencies are noticed in the deed. A county may not require a
12 public hearing on a request to divide five or fewer lots, parcels or
13 fractional interests, and if review of the request is not completed within
14 thirty days from receipt of the request, the land division shall be deemed
15 approved. If no legal access is available, the legal access does not allow
16 access by emergency vehicles or the county zoning requirements are not met,
17 the access or zoning deficiencies shall be noticed in the deed. If a county
18 by ordinance requires a legal access of more than twenty-four feet roadway
19 width, the county is responsible for the improvement and maintenance of the
20 improvement. If the legal access does not allow access to the lots, parcels
21 or fractional interests by emergency vehicles, neither the county nor its
22 agents or employees are liable for damages resulting from the failure of
23 emergency vehicles to reach such lot, parcel or fractional interest.

24 F. It ~~shall be~~ **IS** unlawful for a person or group of persons acting in
25 concert to attempt to avoid the provisions of this section or the subdivision
26 laws of this state by acting in concert to divide a parcel of land into six
27 or more lots or sell or lease six or more lots by using a series of owners or
28 conveyances. This prohibition may be enforced by any county where the
29 division occurred or by the state real estate department pursuant to title
30 chapter 20.

31 G. **~~In~~ FOR THE PURPOSES OF** this section:

32 1. "Legal access" means a public right of vehicular ingress and egress
33 between the lots, parcels or fractional interests being created.

34 2. "Minimum applicable county zoning requirements" means the minimum
35 acreage and dimensions of the resulting lot, parcel or fractional interest as
36 required by the county's zoning ordinance.

37 3. "Utility easement" means an easement of eight feet in width
38 dedicated to the general public to install, maintain and access sewer,
39 electric, gas and water utilities.